

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

BRUCE X. COOPER,

Plaintiff

v.

JEFFREY BEARD, et al.,

Defendants

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CIVIL NO. 3:CV-07-620

(Judge Kosik)

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This civil rights action was originally filed by Plaintiff in the Court of Common Pleas of Schuylkill County, Pennsylvania. Named as Defendants are several Department of Corrections officials and employees of the State Correctional Institution at Frackville, Plaintiff's current place of incarceration. The claims alleged in the complaint arise under the First and Fourteenth Amendment, including violations of the Religious Land Use and Institutionalized Person Act ("RLUIPA"), 42 U.S.C. §§ 2000cc et seq.

On March 30, 2007, Defendants filed a Notice of Removal in this court. On April 3, 2007, a motion to dismiss the complaint was filed. Prior to the time a supporting brief was due to be filed, Defendants submitted a timely motion for

enlargement of time on April 17, 2007. The motion was granted by the court based upon just reasons given by Defendants for the enlargement and no resulting prejudice to Plaintiff. While Defendants requested until May 2, 2007 to submit their brief, the court granted a slightly longer enlargement, until May 11, 2007, since the court never ruled on Defendants' motion until one (1) day prior to the enlargement date requested. No prejudice resulted to Plaintiff by the court's exercise of discretion in doing so. Accordingly, Plaintiff's pending motion to dismiss any supporting brief filed by Defendants as untimely (Doc. 8) will be denied.

Further, Defendants have filed a second timely motion for enlargement of time within which to submit their supporting brief and declaration requesting that the court's previously imposed deadline of May 11, 2007, be enlarged to May 18, 2007. (Doc. 9.) The reason for Defendants' request is a slight delay in the ability to have a declaration signed by Tracy Pollock, a Grievance Review Officer in the DOC Secretary's Office of Inmate Grievances and Appeals. This motion will be granted as a further one week extension of time is not prejudicial to Plaintiff.¹

¹ Further, although Plaintiff filed his brief in opposition to the motion to dismiss prior to any supporting brief having been submitted, the court has previously granted him the opportunity to file a supplement to his opposing brief once a supporting brief has been filed by Defendants.

**ACCORDINGLY, THIS 15th DAY OF MAY, 2007, IT IS HEREBY
ORDERED AS FOLLOWS:**

1. Plaintiff's Motion to Dismiss Defendants' Brief as Untimely Filed (Doc. 8) is **denied**.
2. Defendants' Second Motion for Enlargement of Time (Doc. 9) is **granted**. Defendants shall file their brief in support of the motion to dismiss on or before May 18, 2007.

s/EDWIN M. KOSIK
United States District Judge